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August 27, 2018

VIA ECF AND FACSIMILE

Hon. Nelson S. Roman, U.S.D.J. United State District Court Southern District of New York United States Courthouse 300 Quarropas Street, Courtroom 218 White Plains, NY 10601

Re: In re: DMCA Section 512(h) Subpoena to YouTube (Google Inc.), Case No. 7:18-mc-00268-NSR Pre-Motion Letter

Dear Judge Roman:

We represent the interests of Watch Tower Bible and Tract Society of Pennsylvania ("Watch Tower") User's Motion to Quash the above referenced Subpoena. We respectfully oppose the Motion.

(1) Motion to Quash

The User does not dispute that Watch Tower had a sufficient legal basis to obtain the Subpoena. Rather, he or she contests that the legal entity does not seek to defend its copyrights. This is incorrect.

On June 6, 2018, Watch Tower notified YouTube (Google) that its copyright was being infringed by the dissemination of materials that were unpublished and thus not currently available to the public. Thereafter, on June 19, 2018, this Court granted Watch Tower's request for a subpoena in order to identify the alleged infringer. Watch Tower seeks to defend its copyright.

To defeat the clear intent of the intent of the law protecting copyright holders, the User tries to turn this matter into a religious dispute and asks this Court to shield him or her from the consequences of the actions taken. However, this Subpoena is not geared to suppress public criticism. The User has the legal right to criticize. However, there is no legal right to infringe Watch Tower's intellectual property.

Despite the fact that the User freely admits that the footage in question was posted online "prior to its official release on the JW website," he or she seeks immunization for this infringement and by extension further infringements because of the threat of religious repercussions. Further, the User participated in the obliteration of Watch Tower's right of first publication.

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User makes a number of erroneous assertions in attempting to convince this Court to Quash the Subpoena:

- Watch Tower owns the copyright over the materials in question, it does not "administers and coordinates the preaching and proselytizing efforts of JW" (User letter footnote 2)
- Disfellowshipping does not cause family relationships to be permanently lost: "The religious ties he had with his family change, but blood ties remain. The marriage relationship and normal family affections and dealings continue." (www.jw.org site Do Jehovah's Witnesses Shun Former Members of Their Religion?")
- Websites used by Jehovah's Witnesses do include Terms of Use which include the prohibition against posting "videos...from this website on the Internet (any website, file-sharing site, video-sharing site, or social network)." (websites of Jehovah's Witnesses Terms of Use, eg. See www.tv.jw.org).
- Watch Tower does have the right to decide which copyrights it chooses to enforce. "It is hardly incumbent on copyright owners, however, to challenge, each and every actionable infringement." *Petrella v. MGM*, 134 S.Ct. 1962, 1976 (2014)

2) Leave to Proceed Pseudonymously

User's request to proceed pseudonymously prevents any copyright enforcement, including litigation. Watch Tower cannot send a cease and desist letter or issue service of process absent the individual's name. Further, it effectively immunizes User from all future copyright infringements and it could serve as a basis for others to similarly thwart the plain intent of the DMCA process by contending that they too have fear of reprisal.

3) Extension of Time

User contends that Watch Tower has not pursued enforcement of the Subpoena with urgency. This is not accurate. On July 26, 2018, the undersigned wrote Google requesting expeditious compliance with the Subpoena.

Further, despite being aware that the Subpoena's return date was July 15, 2018, User does not explain why its law firm took almost two weeks to address the non-compliance.

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Accordingly, Watch Tower respectfully requests that the Court deny the User's Motion to Quash.

Sincerely,

Paul D. Pelidno

Paul D. Polidoro Associate General Counsel

c: Malcom Seymour, Esq. (via ECF)